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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT SEATTLE

9 ANDREI STREJAC,  
10 Plaintiff,

11 v.

12 YOUTHCARE d/b/a ISIS HOUSE, *et al.*,  
13 Defendants.  
14

Case No. C09-0498RSL

ORDER GRANTING  
YOUTHCARE'S MOTION FOR  
SUMMARY JUDGMENT

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16 **I. INTRODUCTION**

17 This matter comes before the Court on a motion for summary judgment filed by  
18 defendant YouthCare d/b/a ISIS House ("YouthCare"). Plaintiff contends that he was  
19 wrongfully evicted from his housing at ISIS House, a transitional housing facility serving  
20 low-income youth in Seattle that is owned and managed by defendant YouthCare.  
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22 The Court heard oral argument on this matter on November 18, 2009. For the  
23 reasons set forth below, the Court grants YouthCare's motion. However, because the  
24 Court has granted plaintiff's separate motion to amend his complaint to add a breach of  
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1 contract claim, this motion does not resolve the entire matter.

## 2 **II. DISCUSSION**

### 3 **A. Background Facts.**

4 YouthCare is a non-profit educational organization based in Seattle serving  
5 homeless youth. It provides services and educational programs including meals, hygiene,  
6 employment training, HIV/AIDS services, and schooling. YouthCare also provides  
7 temporary housing based on the individual's needs and capabilities.  
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9 In August 2008, plaintiff moved into ISIS House. ISIS stands for "Intervention,  
10 Support, Independence and Success."

11 YouthCare subsequently removed plaintiff from ISIS house because he allegedly  
12 failed to follow the rules and refused to sign a behavior contract. As a result, on March  
13 19, 2009, the Youthcare housing manager, Cate Culpepper, informed plaintiff that he  
14 was "evicted" and asked him to leave the premises. Plaintiff refused to leave, called 9-1-  
15 1, and claims that the responding Seattle Police Department officers encouraged him to  
16 leave in violation of his civil rights.  
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18 The next day, plaintiff filed a lawsuit in King County Superior Court alleging that  
19 he was wrongfully evicted. Plaintiff also filed a motion for a temporary restraining order,  
20 which was denied. Defendants subsequently removed the case to this Court. Against  
21 YouthCare, plaintiff asserts claims under Washington's Residential Landlord-Tenant Act  
22 ("RLTA"), RCW 59.18 *et seq.*, under the common law for wrongful eviction, and for  
23 conversion/trespass to chattels. Plaintiff also asserted claims against the City of Seattle  
24 and several police officers; those claims have been dismissed.  
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1 **B. Summary Judgment Standard.**

2 Summary judgment is appropriate when, viewing the facts in the light most  
3 favorable to the nonmoving party, the records show that “there is no genuine issue as to  
4 any material fact and that the movant is entitled to judgment as a matter of law.” Fed. R.  
5 Civ. P. 56(c). Once the moving party has satisfied its burden, it is entitled to summary  
6 judgment if the non-moving party fails to designate, by affidavits, depositions, answers to  
7 interrogatories, or admissions on file, “specific facts showing that there is a genuine issue  
8 for trial.” Celotex Corp. v. Catrett, 477 U.S. 317, 324 (1986).

10 All reasonable inferences supported by the evidence are to be drawn in favor of the  
11 nonmoving party. See Villiarimo v. Aloha Island Air, Inc., 281 F.3d 1054, 1061 (9th Cir.  
12 2002). “[I]f a rational trier of fact might resolve the issues in favor of the nonmoving  
13 party, summary judgment must be denied.” T.W. Elec. Serv., Inc. v. Pacific Elec.  
14 Contractors Ass’n, 809 F.2d 626, 631 (9th Cir. 1987). “The mere existence of a scintilla  
15 of evidence in support of the non-moving party’s position is not sufficient.” Triton  
16 Energy Corp. v. Square D Co., 68 F.3d 1216, 1221 (9th Cir. 1995). “[S]ummary  
17 judgment should be granted where the nonmoving party fails to offer evidence from  
18 which a reasonable jury could return a verdict in its favor.” Id. at 1221.

20 **C. Analysis.**

21 To support his conversion/trespass to chattels claim, plaintiff contends that  
22 YouthCare wrongfully retained some of his possessions after he left ISIS House. Soon  
23 after that event, YouthCare’s counsel sent plaintiff’s counsel a letter offering plaintiff the  
24 chance to collect his belongings, and plaintiff subsequently did so. Declaration of

1 Allyson O'Malley-Jones, (Dkt. #60-2), Ex. 1. During oral argument, plaintiff's counsel  
2 stated that she is unaware of any items that were damaged or missing. Accordingly, the  
3 Court grants summary judgment on that claim.

4 Plaintiff's remaining claims turn on whether YouthCare was required to utilize the  
5 RLTA's eviction procedures prior to removing plaintiff from ISIS House. As an initial  
6 matter, plaintiff contends that YouthCare should be equitably estopped from asserting that  
7 he was not a tenant because its rental agreement referred to plaintiff as a "tenant."

8 Declaration of Melinda Giovengo, (Dkt. #39) ("Giovengo Decl."), Ex. D. Plaintiff claims  
9 that based on the rental agreement, he believed that he was a tenant. However, equitable  
10 estoppel is an affirmative defense that must be pled, which plaintiff did not do. See, e.g.,  
11 Heath v. Uruga, 106 Wn. App. 506, 516 (2001). Moreover, plaintiff has not shown that  
12 he relied on the rental agreement to his detriment. At the time he signed the agreement,  
13 plaintiff was homeless and YouthCare provided him with shelter. In addition, plaintiff  
14 was specifically notified that certain offenses could result in his immediate eviction,  
15 including the failure to be respectful of clients, staff, and other property. Giovengo Decl.,  
16 Ex. G. That statement undermines plaintiff's professed belief that he was a tenant with  
17 the accompanying rights regarding evictions. For these reasons, plaintiff's equitable  
18 estoppel claim is untenable.

19 Similarly, the Court will not address plaintiff's contention that YouthCare's  
20 actions violated 24 C.F.R. § 882.511. Plaintiff has not asserted a claim under that  
21 regulation or under any federal law against YouthCare, and the Court denied plaintiff's  
22 previous request to amend his complaint to add such a claim.

1 Plaintiff also contends that YouthCare's conduct violated the RLTA. The RLTA  
2 defines a "tenant" as "any person who is entitled to occupy a dwelling unit primarily for  
3 living or dwelling purposes under a rental agreement." RCW 59.18.030(13). Plaintiff  
4 argues that he had a rental agreement and was entitled to occupy his room at ISIS house  
5 for sleeping. The statute, however, exempts the following living arrangements:

6 Residence at an institution, whether public or private, where residence is merely  
7 incidental to detention or the provision of medical, religious, educational,  
8 recreational, or similar services, including but not limited to correctional facilities,  
9 licensed nursing homes, monasteries and convents, and hospitals.

10 RCW 59.18.040(1). Pursuant to the "or similar services," language, courts have applied  
11 the exemption to institutions not explicitly named in the statute. In Sunrise Group  
12 Homes, Inc. v. Ferguson, 55 Wn. App. 285 (1989), the exemption was applied to a group  
13 home for developmentally disabled adults that provided services to its clients. The court  
14 noted that the exemption "applies to any living arrangement where the tenant has a  
15 purpose for living there independent and apart from the basic requirements of shelter and  
16 amenities." Sunrise Group Homes, Inc., 55 Wn. App. at 288; id. at 289 (explaining that  
17 the exemption does not require that the room and board be "trivial or unimportant;"  
18 rather, "it means that living there is subordinate or attendant to the institutional purpose").  
19 In this case, plaintiff had important independent purposes for living at ISIS House beyond  
20 the provision of food and shelter: he received extensive social services and life skills  
21 support.

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23 Plaintiff relies on *Gray v. Pierce County Housing Auth.*, 123 Wn. App. 744 (2004)  
24 to support his argument that ISIS House is not exempt. In *Gray*, the court found that

1 defendant was not an “institution” as contemplated by the regulation. Despite providing  
2 occasional classes for residents, defendant’s institutional purpose was not to provide  
3 educational services; it was a municipal corporation that provided housing for low income  
4 residents. Gray, 123 Wn. App. at 758-59. In sharp contrast, in this case, YouthCare’s  
5 only purpose was to provide services to homeless and runaway youth in Seattle/King  
6 County. Giovengo Decl., Ex. A. YouthCare provided extensive services to residents  
7 including meals, shelter referral, crisis intervention, hygiene services, case management,  
8 peer training and employment, HIV/AIDS services, educational services, and street  
9 outreach. Id. The provision of broader services to enable independent living  
10 distinguishes this case from those cited by plaintiff.<sup>1</sup> Finally, the Court notes that while  
11 this case was pending in King County Superior Court, a court commissioner found that  
12 this action was not governed by the RLTA. Dkt. #5, Ex. 10 at p. 1. Although that finding  
13 is not binding, the decision of a state court commissioner on an issue of state law is  
14 persuasive. For all of these reasons, the Court finds that YouthCare is exempted from the  
15 provisions of the RLTA.  
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18 Even if YouthCare is exempt from the RLTA, plaintiff contends that the common  
19 law prohibits using non-judicial means to evict tenants. Plaintiff’s contention, however,  
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21 <sup>1</sup> See, e.g., Burke v. Oxford House of Ore. Chapter V, 341 Ore. 82 (2006) (finding  
22 that an Oregon entity that provided housing, but no social services, to recovering  
23 alcoholics was subject to Oregon’s RLTA); Serreze v. YWCA of Western Mass., 30  
24 Mass. App. Ct. 639, 644 (1991) (explaining that a transitional living program for women  
25 and their children escaping domestic violence constituted a landlord-tenant relationship;  
stating that unlike residents of some exempt entities, the participants in the program were  
capable of independent living).

1 begs the question of whether plaintiff was in fact a tenant. Regardless of whether  
2 plaintiff's claim arises under the RLTA or the common law, it is premised on the alleged  
3 existence of a landlord-tenant relationship. Certainly, plaintiff's relationship with  
4 YouthCare had some indicia of a tenancy, including a signed rental agreement, a room  
5 with a lock on the door, and the periodic payment of rent. However, the arrangement  
6 included many features not found in traditional landlord-tenant relationships: YouthCare  
7 refunded a portion of the rent to each resident, it subjected its tenants to what plaintiff  
8 describes as "deeply invasive rules,"<sup>2</sup> and it required residents to accept social work  
9 services from a "Life Skills Coach," a "Case Work Supervisor," and various YouthCare  
10 team members as conditions of living in the facility. YouthCare also required tenants to  
11 obtain employment within one month of moving in, to undergo mental and physical  
12 health examinations, and to provide YouthCare with access to their financial records.  
13 Limitations were placed on the use of residents' rooms: only limited overnight absences  
14 from the room were permitted, residents could not have visitors after 10:00 p.m., their  
15 room doors had to remain open while visitors were present, and quiet time had to be  
16 observed after midnight. Most importantly, YouthCare staff reserved the right "to enter  
17 the clients [sic] room at any time for any reason." Giovengo Decl., Ex. G (setting forth  
18 the right to "search the room and its contents" when "deemed necessary"). Those non-  
19 traditional terms and the unfettered right of entry support the finding that YouthCare is an  
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24 <sup>2</sup> For example, residents are prohibited from spending more than two evenings per  
25 week outside the facility, from engaging in any sexual activity in their rooms, and from  
26 loaning or borrowing money or property from other residents.

1 exempt institution and undermine plaintiff's contention that he was a tenant. A tenancy  
2 includes exclusive possession and use of the property. William Stoebeck, 17 Washington  
3 Practice: Real Estate: Property Law § 6.18 (1995)). In contrast, the absence of that right  
4 indicates that the individual may be a licensee or lodger. See, e.g., Lacey Nursing Ctr.,  
5 Inc. v. Dep't of Revenue, 103 Wn. App. 169, 183-84 (2000). Citing a well-known  
6 treatise, the *Lacey* court explained,

8 No Washington decision defining "lodger" has been discovered, but other courts  
9 have found the following factors persuasive that persons are lodgers and not  
10 tenants: they shared food service, they shared bathroom facilities, the operator of  
the building had free access to their rooms, the operator provided maid service and  
linens, and the room was furnished.

11 Id. at 184 (citing William Stoebeck, 17 Washington Practice: Real Estate: Property Law §  
12 6.18 at 319 (1995)). As a result, the *Lacey* court found that the nursing home residents  
13 were licensees rather than tenants. Although the *Lacey* case involved a tax issue rather  
14 than a landlord-tenant issue, its analysis of landlord-tenant law and its reasoning are on  
15 point. In this case, all of the factors identified by the *Lacey* court undermining tenant  
16 status are present: ISIS House residents shared food service and bathroom facilities,  
17 YouthCare had free access to residents' rooms, YouthCare provided maid service and  
18 linens, and the room was furnished. Accordingly, the Court finds that plaintiff was not a  
19 tenant. Therefore, YouthCare's actions did not violate the RLTA or the common law.


### 21 **III. CONCLUSION**

22 For all of the foregoing reasons, the Court GRANTS YouthCare's motion for  
23 summary judgment (Dkt. #38) and dismisses plaintiff's claims asserted in the second  
24 amended complaint. Because the Court has granted plaintiff's separate motion to file a



1 third amended complaint to assert a breach of contract claim, this case will remain open.

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3 DATED this 18th day of November, 2009.

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6 Robert S. Lasnik  
7 United States District Judge  
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